



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

August 13, 1951

Hon. Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Opinion No. V-1235

Re: Final date for payment of
State ad valorem taxes to
Texas City and Texas City
Independent School District
under House Bill 873, Acts
50th Legislature, 1947.

Dear Mr. Calvert:

Your request for an opinion of this office reads in part
as follows:

"We are enclosing a letter written to this department on April 11 by Holman Lilienstern, City Attorney, Texas City, Texas in regard to the expiration date of House Bill 873, Acts Regular Session, 50th Legislature, which donated the General Revenue State Taxes to the City of Texas City and Texas City Independent School District. Sections 2(a) and (b) and 3 read as follows:

" 'Sec. 2. (a) There shall be and there is hereby donated and granted by the State of Texas to the City of Texas City and to the Texas City Independent School District, in equal portions, the net amount of money collected after the effective date of this Act, and on or before January 31, 1950, from all State ad valorem taxes for general revenue purposes, heretofore levied, or which hereafter may be levied upon all real and personal property, subject to taxation in Galveston County, Texas, including the rolling stock of railroads apportioned to said County as provided by law; but excluding delinquent ad valorem taxes which heretofore have been donated and set apart to the City of Galveston by Chapter 294, Acts, Regular Session, Forty-eighth Legislature.

" '(b) All of said taxes are hereby granted and

donated to the City of Texas City and Texas City Independent School District, one-half (1/2) thereof to each, for the purpose of aiding and assisting the said City and said School District in carrying out any and all the powers, duties and functions respectively conferred or enjoined upon each by law. It is expressly provided that the City of Texas City and the Texas City Independent School District be and they are authorized to expend the funds herein granted and donated for, but not limited to, the following of their respective purposes: the construction of public buildings which said City and Independent School District are authorized by law to build and erect, and for the acquisition of sites therefor; for the repair and improvement of existing buildings, utilities and public improvements of said City and School District; for payment of principal or interest on outstanding indebtedness; and for maintenance and operating expenses of said City and School District.

"Sec. 3. If for either of the years 1947, 1948 or 1949, the State levies for general revenue purposes an ad valorem tax at a rate less than thirty cents (30¢) on the One Hundred Dollars (\$100) valuation of taxable property, or makes no levy for general revenue purposes for any such year, then in addition to the amounts provided for in Section 2 hereof, the ad valorem taxes for the next succeeding year or years after 1949, in which a levy for general fund purposes is made, shall be and are hereby granted and donated to said City and said School District in equal portions for the purposes stated in Section 2 hereof, and in the manner provided in this Act, in such amounts as shall be necessary to aggregate the taxes which would have been obtained from a levy of thirty cents (30¢) for all of the taxable years beginning January 1, 1947, 1948 and 1949; provided, however, that at all events this Act shall expire January 31, 1953.'

"Please advise us on what date the County Tax Assessor-Collector of Galveston County should stop making the payments to the City and School District."
(Emphasis added.)

We are of the opinion that it was the intent of the Legislature to donate or grant only those taxes actually collected prior to February 1, 1950, if a thirty-cent tax was levied for each of the years 1947, 1948, and 1949. Thus the tax donation would have terminated on January 31, 1950 if a thirty-cent tax for general purposes had been levied by the State for each of the years 1947, 1948, and 1949. That this was the intent of the Legislature is evidenced in Section 2(a) of the Act, which expressly provided that only those taxes collected "on or before January 31, 1950" were donated. In an opinion by this office addressed to Hon. Grady Hazlewood, dated April 26, 1951, it was held that taxes levied during the donation period but not collected until a subsequent date were not included in a donation for a two-year period of "all of the State ad valorem taxes collected for general revenue purposes." The State tax was not, however, levied for the year 1948,¹ and under Section 3 of the Act the failure of the State Tax Board to levy the State tax had the effect of extending the tax donation for an additional year. We have assumed for the purposes of this opinion that the city and independent school district received from the State tax levied for 1950 amounts equal to that which they would have received had there been a State levy of thirty cents in 1948. The grant, therefore, expired on January 31, 1951.

The Act donated only those taxes actually "collected" during the period of the grant; therefore, those taxes which were delinquent or due and owing during this period but which were not actually collected prior to January 31, 1951, were not included within the grant. We may, however, point out that taxes which were delinquent and owing prior to June 3, 1947, and collected during the period of the grant (exclusive of those delinquent taxes granted to the City of Galveston by Acts 48th Leg., 1943, ch. 294, p. 435) were included within this donation. Att'y Gen. Op. O-4223 (1941).

It is our opinion that the Tax Assessor and Collector of Galveston County should not make any payments to the City of Texas City or the Texas City Independent School District under the grant

¹See Acts 51st Leg., R.S., 1949, ch. 309, p. 572, granting additional ad valorem taxes to various public agencies in order to provide relief because of the failure of the State to levy the State ad valorem tax for general purposes in 1948.

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of State taxes by the Acts 50th Leg., R.S. 1947, ch. 332, p. 620, from any taxes collected after January 31, 1951.

SUMMARY

The grant of State ad valorem taxes to the City of Texas City and the Texas City Independent School District under Acts 50th Leg., 1947, ch. 332, p. 620, terminated or expired on January 31, 1951, and no taxes collected after that date should be paid to the city or independent school district under said grant.

APPROVED:

Yours very truly,

W. V. Geppert
Taxation Division

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